

REMARKS

This amendment is responsive to the Office Action dated February 11, 2003. Following the instant Amendment, Claims 1-20 are pending in the present application. Claims 1, 3, 4, 11 and 20 are hereby amended only to clarify the subject matter of the invention and not in a limiting sense. Applicants have specifically addressed each and every one of the Office Actions rejections in the amendments and remarks herein. Thus, Applicants respectfully submit the remaining claims, as amended herewith, are allowable and an early notification of allowance is requested.

This response is being filed within five (5) months from the mailing date of the Office Action and a Petition for an Extension of Time is filed herewith along with the appropriate fee in the accompanying credit card payment form.

I. Claim Rejections – 35 USC §103

The Office Action rejected Claims 1-5, 7, 9-12 and 18 under 35 USC 103 as being unpatentable over Chung (US Pat No. 5,692,828) or Hall (US Pat No. 5,297,013) in view of Shalvi (US Pat No. 6,120,165). Applicants respectfully traverse the rejection and the combination, modification and interpretation of the references, and assert that the subject claims are unobvious and are allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact the references are individually complete and functional independently for each limited specific

purpose and fail to suggest any motivation to modify or combine the same. Chung teaches a method of permanently mounting a light fixture onto a post such that the spikes contained within the post align with the wires of the electrical components and penetrate the same in a guided manner in order to prevent misalignment. Hall teaches a light assembly that has a clear covering around the light source such that a person's vision of the interior of the covering is unobstructed to aid in its maintenance. As can be discerned, Chung and Hall fail to teach Applicants' interchangeable display elements that provide, in addition to illumination, a display element that can project messages or seasonal presentations. In addition, Shalvi teaches a solar lamp that has a motion detector which is activated if an intruder is present. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification as proposed by the Office.

In addition, the Office Action also appreciates the advantages of Applicants' invention and is using hindsight and Applicants' in order to modify and combine the references in attempt to render Applicants' claims obvious. Applicants respectfully assert that if the invention were in fact obvious, because of the advantages it provides in easily transitioning between different display elements, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in three references to achieve the claimed invention. Applicants respectfully submit that the fact the modification produces advantages in efficiently transitioning between different display elements militates in favor of Applicants because it proves that Applicants' invention produces new and unexpected results and hence is unobvious.

Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding **Claim 1**, even if the modification were legally justified, it still would not render Applicants' invention obvious. Applicants' invention claims an interchangeable display element that may be adapted to exhibit illuminated messages or seasonal ornamentation. None of the references either teach or even contemplate the same. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 1 for at least the aforementioned reasons.

Regarding **Claim 2**, it depends from Claim 1 and incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 2 for at least the aforementioned reasons.

Regarding **Claim 3**, which depends from Claim 1, and other intervening claims, incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. In addition, Claim 3, as amended, claims the limitation of a retractable protruding member which accommodates the interchangeable aspects of Applicants' display element. Neither Chung nor Hall teach or even contemplate a retractable protruding member for attachment of their respective devices. (Cheung, column 3, lines 10-60; Hall, column 3, lines 1-3) Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 3 for at least the aforementioned reasons.

Regarding **Claim 4**, which depends from Claim 1, and other intervening claims, incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. In addition, Claim 4 claims the limitation of a retractable protruding member which accommodates the interchangeable aspects of Applicants' display element. Neither Chung nor Hall teach or even contemplate a retractable protruding member for attachment of their respective devices. (Cheung, column 3, lines 10-60; Hall, column 3, lines 1-3) Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 4 for at least the aforementioned reasons.

Regarding **Claim 5**, which depends from Claim 1, and other intervening claims, incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. In addition, Claim 5 claims the limitation of a tubular region which is able to accommodate the affixing element. Neither Chung nor Hall teach or even contemplate a tubular region and would not require the same because they are constructed in a unitary manner. Moreover, Chung and Hall have a "cross" shaped longitudinally and cannot be tubular. (Chung, Fig 1; Hall, Fig 1) Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 5 for at least the aforementioned reasons.

Regarding **Claim 7**, which depends from Claim 1, and other intervening claims, incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. In addition, Claim 7 claims the limitation of a tubular support element receiving an extending element, which extending element receives the affixing element therein, such that the height of the device can be varied. Neither Chung nor Hall teach or even contemplate a tubular support, extending, and affixing element and would not require the same because they are constructed in a unitary manner. Moreover, Chung and Hall have a "cross" shaped longitudinally and cannot be tubular. (Chung, Fig 1; Hall, Fig 1) Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 7 for at least the aforementioned reasons.

Regarding **Claim 9**, it depends from Claim 1, and other intervening claims, and incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 9 for at least the aforementioned reasons.

Regarding **Claim 10**, it depends from Claim 1, and other intervening claims, and incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 10 for at least the

aforementioned reasons.

Regarding **Claim 11**, even if the modification were legally justified, it still would not render Applicants' invention obvious. Applicants' invention claims an interchangeable display element that may be adapted to exhibit illuminated messages or seasonal ornamentation. None of the references either teach or even contemplate the same. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 11 for at least the aforementioned reasons.

Regarding **Claim 12**, it depends from Claim 11 and incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. In addition, Claim 11 claims the limitation of a retractable protruding member which accommodates the interchangeable aspects of Applicants' display element. Neither Chung nor Hall teach or even contemplate a retractable protruding member for attachment of their respective devices. (Cheung, column 3, lines 10-60; Hall, column 3, lines 1-3) Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 12 for at least the aforementioned reasons.

Regarding **Claim 18**, it depends from Claim 11 and incorporates the novel and unobvious limitations thereof. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 18 for at least the aforementioned reasons.

The Office Action rejected **Claims 6, 8, 13-17 and 19** under 35 USC 103 as being unpatentable over Chung (US Pat No. 5,692,828) or Hall (US Pat No. 5,297,013) in view of Shalvi (US Pat No. 6,120,165) as applied to claim 1, 2 and 5 above, and further in view of either Woodward (USPN 6,120,165) or Cassey (USPN 3,805,055). Applicants respectfully traverse the rejection and the combination, modification and interpretation of the references, and assert that the subject claims are unobvious and are allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references

cited by the Office suggest any reason to modify the references as proposed. In fact the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same. Chung teaches a method of permanently mounting a light fixture onto a post such that the spikes contained within the post align with the wires of the electrical components and penetrate the same in a guided manner in order to prevent misalignment. Hall teaches a light assembly that has a clear covering around the light source such that a person's vision of the interior of the covering is unobstructed to aid in its maintenance. As can be discerned, Chung and Hall fail to teach Applicants' interchangeable display elements that provide, in addition to illumination, a display element that can project messages or seasonal presentations. In addition, Shalvi teaches a solar lamp that has a motion detector which is activated if an intruder is present. Woodward teaches a hand portable light that has an extendable lamp housing that cannot be affixed into the ground. Cassey teaches an outdoor light structure wherein the above ground portion is detachable from the base which is received in the ground. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification of unrelated and disparate inventions as proposed by the Office.

In addition, the Office Action also appreciates the advantages of Applicants' invention and is using hindsight and Applicants' invention in order to modify and combine the references in attempt to render Applicants' claims obvious. Applicants respectfully assert that if the invention were in fact obvious, because of the advantages it provides in easily transitioning between different display elements and providing different lighting levels for outdoor lights affixed to the ground, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great

advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in five disparate references to achieve the claimed invention. Applicants respectfully submit that the fact the modification produces advantages in efficiently transitioning between different display elements and providing lighting at differing heights militates in favor of Applicants because it proves that Applicants' invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Regarding Claims 6 and 8, even if the modification were legally justified, it still would not render Applicants' invention obvious. Applicants hereby incorporate the remarks set forth above with respect to the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Woodward teaches a hand portable light with an extendable housing that is to be placed on a table or a work bench. (column 4, lines 66-68) Casey, on the other hand, does not teach an extendable light housing but teaches a light housing that can be separated from its support base to allow easier lawn mowing. (column 1, lines 60-68) Accordingly, none of the references either teach or even contemplate Applicant's invention that allows the lighting element to be maintained at different heights. Therefor, Applicant respectfully requests withdrawal of the rejection of Claims 6 and 8 for at least the aforementioned reasons.

Regarding Claim 13, it depends from Claim 11 and incorporates the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6 and 8 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element and differing heights. Moreover, because Chung and Hall do not have tubular shapes, as specified in greater detail above, they could not be adapted to be telescoping in nature.

Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 13 for at least the aforementioned reasons.

Regarding Claim 14, it depends from Claim 11 and incorporates the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6 and 8 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element and differing heights. Moreover, because Chung and Hall do not have tubular shapes or an extending element between the top region and the base region, as specified in greater detail above, they could not be adapted to be telescoping in nature. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 14 for at least the aforementioned reasons.

Regarding Claim 15, it depends from Claim 11 and intervening claims and incorporates the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6, 8, 11 and 14 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element at differing heights. Moreover, because Chung and Hall do not have tubular shapes, as specified in greater detail above, they could not be adapted to be telescoping in nature. Also, because Casey is a portable flashlight and can be easily pilfered, it would not be logical to place an expensive solar cell on a device that cannot be left outside to recharge. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 15 for at least the aforementioned reasons.

Regarding Claim 16, it depends from Claim 11 and intervening claims and incorporates

the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6, 8, 11 and 14 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element at differing heights. Moreover, because Chung and Hall do not have tubular shapes, as specified in greater detail above, they could not be adapted to be telescoping in nature. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 16 for at least the aforementioned reasons.

Regarding Claim 17, it depends from Claim 11 and intervening claims and incorporates the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6, 8, 11, 14 and 16 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element at differing heights. Moreover, because Chung and Hall do not have tubular shapes, as specified in greater detail above, they could not be adapted to be telescoping in nature. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 17 for at least the aforementioned reasons.

Regarding Claim 19, it depends from Claim 11 and intervening claims and incorporates the novel and unobvious limitations thereof. In addition, Applicants incorporate herein by reference the remarks set forth above regarding the failure of Chung, Hall, and Shalvi to render Applicants' invention obvious. Furthermore, Applicants incorporate herein the remarks set forth above with respect to claims 6, 8, 11 and 14 and Woodward and Casey's failure to render Applicants' limitation of presenting the display element at differing heights. Moreover, because Chung and Hall do not have tubular shapes, as specified in greater detail above, they could not

be adapted to be telescoping in nature. Accordingly, even if the modification were legally justified, it still would not render Applicants' invention obvious. Therefor, Applicant respectfully requests withdrawal of the rejection of Claim 19 for at least the aforementioned reasons.

The Office Action rejected **Claim 20** under 35 USC 103 as being unpatentable over Chung (US Pat No. 5,692,828) or Hall (US Pat No. 5,297,013) in view of Shalvi (US Pat No. 6,120,165) and further in view of either Woodward (USPN 6,120,165) or Cassey (USPN 3,805,055). Applicants respectfully traverse the rejection and the combination, modification and interpretation of the references, and assert that the subject claims are unobvious and are allowable.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. None of the references cited by the Office suggest any reason to modify the references as proposed. In fact the references are individually complete and functional independently for each limited specific purpose and fail to suggest any motivation to modify or combine the same. Chung teaches a method of permanently mounting a light fixture onto a post such that the spikes contained within the post align with the wires of the electrical components and penetrate the same in a guided manner in order to prevent misalignment. Hall teaches a light assembly that has a clear covering around the light source such that a person's vision of the interior of the covering is unobstructed to aid in its maintenance. As can be discerned, Chung and Hall fail to teach Applicants' interchangeable display elements that provide, in addition to illumination, a display element that can project messages or seasonal presentations. In addition, Shalvi teaches a solar lamp that has a motion detector which is activated if an intruder is present. Woodward teaches a hand portable light that has an extendable lamp housing that cannot be affixed into the ground. Cassey teaches

an outdoor light structure wherein the above ground portion is detachable from the base which is received in the ground to allow easier lawn mowing. Accordingly, from reviewing the cited references, it is clear that the references provide no motivation for the combination or modification of unrelated and disparate inventions as proposed by the Office.

In addition, the Office Action also appreciates the advantages of Applicants' invention and is using hindsight and Applicants' invention in order to modify and combine the references in attempt to render Applicants' claims obvious. Applicants respectfully assert that if the invention were in fact obvious, because of the advantages it provides in easily transitioning between different display elements and providing different lighting levels for outdoor lights affixed to the ground, those skilled in the art surely would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Furthermore, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in five disparate references to achieve the claimed invention. Applicants respectfully submit that the fact the modification produces advantages in efficiently transitioning between different display elements and providing lighting at differing heights militates in favor of Applicants because it proves that Applicants' invention produces new and unexpected results and hence is unobvious. Moreover, Applicants' limitations, as set forth in the claims, are not rendered obvious and remarks are presented hereinafter with respect to each claim and the failure of the references to render the same obvious.

Applicants incorporate herein all of the remarks set forth above with respect to all of the claim limitations and the cited references' failure to teach or contemplate the same and their failure to render the same obvious. In addition, Applicants note the preemptive citation of In re Gorman, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991) in an attempt to deflect the numerous

references cited by the Office in an attempt to render Applicants' claims obvious. Applicants respectfully assert that the facts of In re Gorman are distinguishable from the instant case. In In re Gorman, the court held that the confectionary invention, candy in the shape of a human thumb, was obvious despite the numerous references cited because the references themselves provided the motivation for the combination, "When it is necessary to select elements of various teachings in order to form the claimed invention, we ascertain whether there is any suggestion or motivation in the prior art to make the selection made by the applicant." However, the court held that "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In the instant case, the references fail to themselves suggest any motivation for their combination as proposed in the Office Action. In fact, the Office is improperly using Applicants' invention as a guide map and selecting elements from references that fail to provide any motivation for their combinations in an attempt to render Applicants' claims obvious. In such a situation, the court held that the use of the numerous references in a piecemeal manner would bolster Applicants' assertion that its claims are in fact unobvious.

As a result, for at least the aforementioned reasons, Applicants' respectfully request the withdrawal of the rejection of Claim 20.

II. References Made of Record

Applicants have reviewed the references made of record and respectfully assert that none of the references therein either anticipates Applicants' invention or renders the same obvious.

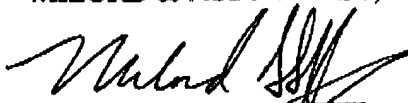
CONCLUSION

It is respectfully submitted that the case is now in condition for allowance, and an early notification of the same is requested. If it is believed that a telephone interview will help further

the prosecution of this case, Applicants respectfully request that the undersigned attorney be contacted at the listed telephone number.

Respectfully submitted,

MILORD & ASSOCIATES, APC



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